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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/809,981

03/26/2004

David R. Adaskin

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EXAMINER

GORDON, BRIAN R

ART UNIT

PAPER NUMBER

1797

NOTIFICATION DATE

DELIVERY MODE

05/13/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IPOPS.LEGAL@agilent.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/809,981	<b>Applicant(s)</b> ADASKIN ET AL.	
	<b>Examiner</b> Brian R. Gordon	<b>Art Unit</b> 1797	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12-17 and 21-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-17, 21-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 6, 2010 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed May 6, 2010 have been fully considered but they are not persuasive.

In view of applicant's amendments/remarks the previous 102 and 103 art rejections are hereby withdrawn.

Claims 1 and 6 have been amended such that they now incorporate new matter not supported within the original specification. The claims have been amended to recite "said printhead assembly comprises multiple printheads and one or more nozzle plates". Applicant asserts the limitation is supported at paragraph [0050]. The examiner disagrees. The only implied reference to nozzle plates in the paragraph is "...the Printhead Assemblies, they may vary by at least .....the type of nozzle orifice plate..." It is assumed that nozzle plates are the same as nozzle orifice plate as disclosed in the specification. However, applicant should amend the claim such that the terminology of the claim is consistent with the specification such to avoid any confusion. As such, the

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claims (and any other claims that recite "nozzle plate") should recite "orifice nozzle plate". Furthermore, it should be noted the paragraph recites "type of nozzle orifice plate" which is singular. The paragraph doesn't recite number of nozzle orifice plates or type of nozzle plates. Therefore at best the disclosure only supports the printhead assemblies as comprising a nozzle orifice plate and not one or more nozzle plates as claimed.

Furthermore, it should be noted that the "replacing" paragraph of claims 1 and 6 recite "said assembly comprises". However the claims recite first and second assemblies. As such, it is unclear which assembly is being referenced by the phrase (see also claim 8 and any other similar claim including such recitation). It appears as if the claims should read "...said printhead assemblies comprise..."

As to claim 8, applicant asserts that the claim is supported in paragraphs [0010 - 0011], "memory files and programming module(s) may be provided to plug-and-play operability..." However, claim 8 specifically recites "said printhead assembly comprises electronic media". Files are not equivalent to electronic media. Furthermore, the paragraphs broadly state "provided". Eventhough the files are not considered equivalent to electronic media, the passage fails to disclose where the files are provided (located). The location of such files is not disclosed as being within the structure of the printhead assemblies. Based on the term "provided", the files can be provided on a separate data disk (or other media) or any other device outside that of the instant invention that can be connected thereto. As such, the examiner maintains the position that the claim is directed to new matter. The standard for applicant's disclosure is not

what one of ordinary skill would recognize. Applicant is only entitled to claim that which is disclosed in applicant's specification. Furthermore, all plug-and-play components do not include electronic media (files) as asserted by applicant. Therefore, the passage is insufficient to support the claim.

In view of such the claims are rejected for incorporating new matter.

***Claim Rejections - 35 USC § 112***

3. Claims 1-10, 12-17, and 21-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims are directed to new matter. See Response to Arguments.

4. Claims 1, 6, 8, 22, and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Each of the claims recites "nozzle plates" and/or "said printhead assembly". See Response to Arguments.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian R. Gordon whose telephone number is 571-272-1258. The examiner can normally be reached on M-F, 1st Fri. Off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian R Gordon/  
Primary Examiner  
Art Unit 1797